

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application)	PATENT APPLICATION
)	
Inventors: Tu, et al.)	
)	Art Unit: 2141
Application No.: 09/618,954)	
)	Examiner: Coulter, Kenneth R.
Filed: July 19, 2000)	
)	Customer No. 28554
Title: METHOD AND APPARATUS FOR)	
A SECURE REMOTE ACCESS SYSTEM)	
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APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This brief is submitted in accordance with 37 C.F.R. §41.37, following the Notice of Appeal filed by Appellant(s) on May 14, 2007. The fee set forth in 1.17(c) is submitted herewith.

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I. REAL PARTY IN INTEREST *(37 C.F.R. §41.37(c)(i))*

The real party in interest is fusionOne, Inc.

II. RELATED APPEALS AND INTERFERENCES *(37 C.F.R. §41.37(c)(ii))*

Appellant knows of no other appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS *(37 C.F.R. §41.37(c)(iii))*

Claims 1-6 and 23-26 are pending in this application. All claims stand finally rejected.

Appellant herein appeals from the final rejection of claims 1-6 and 23-26.

IV. STATUS OF AMENDMENTS *(37 C.F.R. §41.37(c)(iv))*

No amendments are submitted with this Brief. All amendments to date have been entered.

V. SUMMARY OF CLAIMED SUBJECT MATTER (37 C.F.R. §41.37(c)(v))

The invention recited in claims 1-6 and 23-26 generally relates to a system and method “for providing access to a base device identified with a user of a remote client device.” (Independent claims 1 and 23). In particular, as explained in the Background of the Invention Section, specialized remote access software systems were known at the time of the invention to establish a direct connection between a remote computer and a base computer. There were two such remote access systems known at the time of the invention. One was referred as a remote access server (“RAS”) system and the other was referred to as a remote control system (“RCS”). As stated in the Background at pages 2-3:

Remote access systems can generally be categorized into two types of systems. The first system is generally referred to as a remote access server (RAS) system. A RAS system usually comprises server RAS software residing on a RAS server and client RAS software residing on a “remote” computer. The RAS server is coupled to resources (e.g., printers, files, other nodes) which are remotely accessed by a user of the system. In operation, a user of the remote computer connects to the RAS server via a dial-in telephone connection. Upon connection, the RAS server queries for the user's access credentials (e.g., user name and password). Upon authentication of the user's access credentials, the user is granted access to resources on the RAS server and/or resources on other nodes connected to the RAS server to which the user is authorized access. The RAS software manages the connection process, the authentication process, the access privileges, and the data transfers between the RAS server and the remote computer. RAS systems are also used by commercial service providers, such as Internet Access Providers (ISPs) to allow their customers access into their network resources. . . .

The other type of remote access system is generally referred to as a remote control system (RCS). RCSs allow a remote user to not only access resources on another “host” computer, but also allow the user to control the host computer. RCSs typically display on the remote computer what would normally be displayed on the host computer (known as screen emulation). In this way, the user is able to control the host computer from the remote computer as if the user was directly accessing the host computer. An example of a commercially available RCS product is PC Anywhere™ by Symantec Corp™. Like RAS systems, RCS allows a remote user to connect via a conventional means, including a telephone connection and via the Internet. Again, special software is required on both nodes.

There were several disadvantages associated with RAS and RCS systems (as set forth in the application at page 3, line 21 et. seq.). The present invention overcomes these problems by providing a

system and method including a user server for communicating data between a user's base device and remote client device. (Claims 1-6 and 23-26). In particular, as recited in claims 1-6 and 23-26 and as shown in Fig. 4 and described with respect to the flowcharts of Figs. 6-8, a user of a remote device 54 will make a request (for example to read or write information) that is communicated to a user server module 18. Periodically, the base device 42 will initiate contact with the user server module 18 to see if a request has come in. This feature is explained in the present application for example at page 23, lines 14-23:

Preferably, communications between the base device 42 and the Sili server 30 are initiated by the base device 42. For example, a base device 42 which maintains a full time Internet connection is generally configured to periodically communicate "job request" commands at a predetermined interval (e.g., forty (40) seconds) to the Sili server 30. In response, the Sili server 30 may indicate "no job" or "job request by a user server module". "No job" is communicated where the user associated with the base device 42 is not requesting data at this time. "Job request by a user sever module" is communicated when the user associated by the base device 42 is requesting data (which is indicated to the Sili server 30 by the agent communication module 60 as noted above).

The advantages of such a system are explained in the present application at page 26, line 19 through page 27, line 8:

As described above, communication sequences between the system 10 (Sili server 30 and user server module 18) and the base device 42 are generally initiated by the base device 42, rather than the system 10. . . This arrangement provides several advantages which overcomes problems associated with the prior art. First, security is increased since the data communications are initiated by the base device rather than by the system 10. By requiring the base device to initiate communication (and therefore establish a connection socket), hacking into the base device from the outside becomes a more difficult task. Additionally, the invention may be practiced even if the base device is behind firewall because the base device initiates communication and opens the connection to the agent communication module, thereby allowing reply communications and task commands to be communicated from the agent communication module.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL *(37 C.F.R. §41.37(c)(vi))*

Whether claims 1-6 and 23-26 are properly rejected under 35 U.S.C. §102(e) as being clearly anticipated by U.S. Patent No. 6,167,120 to Kikinis (“Kikinis”).

VII. ARGUMENT (37 C.F.R. §41.37(c)(vii))*

Rejection of Claims 1-6 and 23-26 Under 35 U.S.C. §102(e)

Claims 1-6 and 23-26 are rejected under 35 U.S.C. §102(e) as being anticipated by Kikinis. Applicants respectfully appeal the rejection as follows.

Kikinis relates to a home server unit including a communication bus, a processor and memory for connecting digital devices within the home server interface unit. The home server unit is connected to a plurality of PCs and other peripherals. The home server unit includes a network and telephone adaptor for connecting to a wide area network and to a telephony device. The processor manages data transfers between connected PCs/peripherals and one or more service providers accessed via the wide-area network. As stated in Kikinis, embodiments of the invention are directed to “[solving] the existing problem of providing wide area network access to multiple computerized appliances without requiring multiple service accounts.” (Kikinis, Col. 2, line 45-47).

Each of claims 1-6 and 23-26 recite, in one form or another, a system for providing access to “a base device identified with a user of a remote client device,” where the communication between the remote device and the base device is initiated by the base device. In particular:

- “a user server operatively coupled to said web server and said remote client device, said user server further configured to communicate data between the base device and the user of the remote client device, said user server further configured to communicate data with said base device *via requests initiated by said base device.*” (Claims 1-6. Emphasis added).
- “communicating data between the base device and the remote client device via said user server *from requests initiated by said base device.*” (Claims 23-26. Emphasis added).

Kikinis does not disclose, teach or suggest a system that is responsive to a base device as recited in claims 1-6 and 23-26. In the Office actions, the Examiner has alleged that this feature of the claims is shown in Kikinis in the “Abstract, Fig. 1, Col. 4, lines 30-55 and Col. 2, lines 30-47” of the reference.

* Appellant notes that it filed a Pre-Appeal Brief Request on May 14, 2007 together with the Notice of Appeal setting forth arguments presented herewith. In a communication mailed from the Patent Office on June 6, 2007, the Pre-Appeal Brief Request was denied as being improper on the grounds that the Pre-Appeal Brief included a proposed amendment. Appellant notes that the Pre-Appeal Brief Request did not include any proposed amendments and that the Pre-Appeal Brief Request should have been considered on its merits.

Appellant has carefully reviewed these sections of Kikinis, as well as the reference as a whole, and, as explained below, is able to find no such disclosure in Kikinis.

The Abstract of Kikinis states:

Abstract

A multimedia data distribution system comprises a distribution system adapted to distribute and deliver Asynchronous Transfer Mode signals to the level of an individual home network bus, a micro-PBX connected to the distribution system and to the home network bus; and a converter connected to the home network bus and having an outlet adapted for connecting to conventional single media and multimedia electronic devices, such as telephones, personal computers, fax machines, television sets, and the like. The micro-PBX is adapted to translate between the public network data protocol and a Local Area data protocol on the home network bus, and to manage the home network bus as a Carrier Sense Multiple Access/Collision Detect (CSMA/CD) type bus, and the converter is adapted to convert signals on the home network bus to a form required by one of the single media and multimedia electronic devices. In an alternative embodiment of the invention signals on the home network are provided as high-frequency, spread-spectrum signals.

Nothing in the Abstract relates in any way to initiation of a request for data, let alone that it is the base device itself which initiates the request for data.

The Examiner next indicates that Fig. 1 shows the claim limitation relating to the base device initiating the request for data. Fig. 1 is reproduced below.

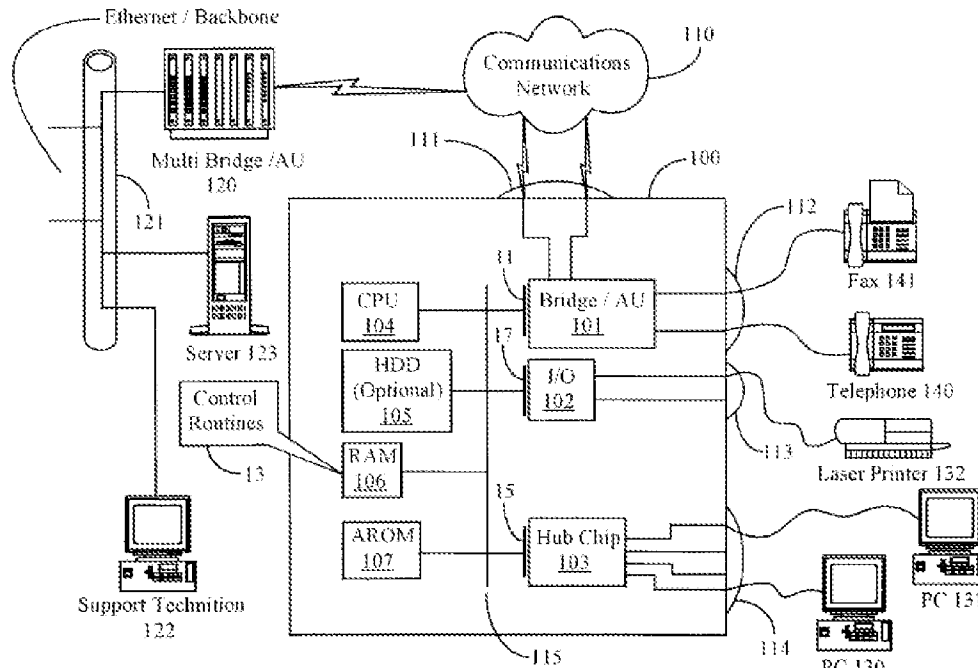


Fig.1 Home System

Kikinis describes Figure 1 as including a block diagram of a home network including a Home Server Unit 100. Kikinis then goes on to explain the hardware in Home Server Unit, including a communications network 110, such as an ISDN connection to a local telephone company switch, connecting to a Multi-Bridge Adapter Unit 120 at the service provider's end. Kikinis states:

Bridge Adapter Unit 120 provides for receiving and processing data packets delivered over network 110, and for sending data packets from the service provider's end to the Home Server Unit, identified for the PC or peripheral device to which each transmission is intended. For example, facsimile messages may be delivered to unit 100 at Bridge Adapter Unit 101 via network 110, and be routed to facsimile machine 141. Alternatively, incoming faxes could be routed to laser printer 132 via I/O circuitry 102.

Returning again to the service provider's end of the system, Multi-Bridge Adapter Unit 120 connects to an Ethernet™ backbone 121 (in this particular embodiment) to which various equipment may be interfaced, such as a server 123 shown and a support technician workstation 122. (Col. 4, lines 41-55).

This is the sum total of the description of Fig. 1. Nothing in Fig. 1 relates in any way to initiation of a request for data, let alone that it is the base device itself which initiates the request for data.

The Examiner next indicates that Kikinis shows the claim limitation relating to the base device initiating the request for data at Col. 4, lines 30-55. This is the description of Fig. 1 discussed above. Specifically, lines 30-40 are a description of the hardware included in Home Server Unit 100 as shown in Fig. 1 and described above. And lines 41-55 of Kikinis are quoted expressly above. Nothing at Col. 4, lines 30-55 in any way relates to initiation of a request for data, let alone that it is the base device itself which initiates the request for data.

Finally, the Examiner indicates that Kikinis shows the claim limitation relating to the base device initiating the request for data at Col. 2, lines 30-47. Col. 2 of Kikinis is the Summary of the Invention section. At lines 30-47 of Col. 2, Kikinis states:

Also in alternative embodiments of the home server unit the CPU, executing stored control routines, provides simultaneous Internet access for two or more PCs connected to the home server unit. Other functions provided by the home server through the CPU and stored control routines include telephone exchange services for two or more telephony devices connected to the home server unit, receiving incoming facsimile transmissions, and routing such transmissions to any one of connected PCs or connected printers, according to preprogrammed instructions, and providing access to a remote server over the port adapted for wide area network connection, so one or more connected PCs may use storage space on the remote server transparently to the user.

The home server unit according to embodiments of the invention solves the existing problem of providing wide area network access to multiple computerized appliances without requiring multiple service accounts.

The above paragraphs discuss the ability of the Home Server Unit 100 to provide access to the Internet for computers connected to the Home Server Unit, as well as other communications provided by the Home Server Unit 100. However, nothing at Col. 2, lines 30-47 in any way relates to initiation of a request for data, let alone that it is the base device itself which initiates the request for data.

Thus, it is respectfully submitted that the sections of Kikinis alleged by the Examiner to show requests initiated by the base device do not in fact show this feature. It is noted that the above-discussed sections, cited to by the Examiner as showing requests initiated by the base device, are the very same sections cited by the Examiner as showing an earlier claim limitation relating to the user server being configured to communicate data between the base device and the remote client device. It would appear

that the Examiner has used these sections of Kikinis generically, without regard to the actual disclosure of these sections vis-à-vis the specific claim limitations recited in the claims. As indicated, appellants have carefully reviewed these sections, as well as the remaining sections of Kikinis, and can find no disclosure, teaching or any suggestion of requests for data being initiated by the base device.

In the claimed invention, a base device is further limited to one which is specifically “identified with a user.” It is clear that there is no disclosure or suggestion anywhere within Kikinis of a system including requests initiated by a base device, nor a system including requests initiated by a base device identified with a user.

It is axiomatic that each and every claim limitation must be found in a single prior art reference to support a rejection under §102. *Apple Computer, Inc. v. Articulate Systems, Inc.*, 234 F.3d 14, 20 (Fed. Cir. 2000). Omission of any claimed element, no matter how insubstantial, is grounds for traversing a rejection based on §102. *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542 (Fed. Cir. 1983). As Kikinis has no disclosure, teaching or suggestion of a remote access system where communication is initiated by the base device, and as Kikinis does not even address the problem to which this solution is directed, it is respectfully submitted that the invention recited in Claims 1-6 and 23-26 is patentable over the cited reference. It is therefore respectfully requested that the rejection of these claims on §102 grounds be withdrawn.

Applicant has pointed out the above-described deficiencies to the Examiner in previous responses to Office actions. The Examiner fails to address applicants’ arguments in the final Office action mailed November 14, 2006. In particular, in the Response filed September 11, 2006, applicants pointed out that Kikinis did not disclose the above-described claim language, and then went on to give the support from the specification which explains the specific claim language. In the Response to Arguments section of the final Office action mailed November 14, 2006, at page 4, the Examiner ignores applicants’ statements relating to specific claim language, and refers only to applicants’ discussion of the specification (which supports the recited claim language). The Examiner then concludes that reliance on the specification is not proper – it is the claim language which must be the focus.

Applicants agree. Applicants have repeatedly pointed out that Kikinis fails to disclose, teach or suggest the feature of a system including requests initiated by a base device. This feature is expressly recited in the claims.

Based on the above, it is respectfully requested that the rejection of claims 1-6 and 23-26 under 35 U.S.C. §102(e) be withdrawn.

CONCLUSION

Based on the above, it is respectfully submitted that claims 1-6 and 23-26 are patentable over the cited reference, and it is respectfully requested that the rejections of claims 1-6 and 23-26 be withdrawn.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 501826 for any matter in connection with this Appeal Brief, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: October 15, 2007

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VIII. CLAIMS APPENDIX (37 C.F.R. §41.37(c)(viii))

1. (original) A system for providing access to a base device identified with a user of a remote client device, said remote access system comprising:

- a) a web server operatively coupled for communication with the remote client device accessed by the user; and
- b) a user server operatively coupled to said web server and said remote client device, said user server further configured to communicate data between the base device and the user of the remote client device, said user server further configured to communicate data with said base device via requests initiated by said base device.

2. (original) The remote access system of claim 1, wherein said data communicated to the remote client device is formatted for viewing by a web browser.

3. (original) The remote access system of claim 1, wherein said data communicated to the remote device is further formatted for viewing on a personal computer.

4. (original) The remote access system of claim 1, wherein said data communicated to the remote device is further formatted for viewing on a mobile telephone.

5. (original) The remote access system of claim 1, wherein said data communicated to the remote device is further formatted for viewing on a personal digital assistant device.

6. (original) The remote access system of claim 1, wherein said data communicated to the remote device is further formatted for viewing on an internet appliance device.

7. (withdrawn) In a server device operatively coupled to at least one base device and at least one remote access device, a method for securely communicating data between the base device and the remote access device comprising:

- a) authenticating a user's access credential to access the base device from the remote access device;

- b) receiving a request from said user to carry out at a command on said base device;
- c) awaiting a task connection request from said base device;
- d) replying to said task connection request with a task connection reply to establish a socket connection;
- e) communicating a command to said base device in conjunction with said task connection reply to carry out the command requested by the user;
- f) receiving from said base device the results of said command; and
- g) communicating to said user said results of said command.

8. (withdrawn) The method of claim 7, further comprising communicating a wake up signal to said base device prior to awaiting a task connection request.

9. (withdrawn) The method of claim 7, further comprising maintaining said socket connection with said base device in an open fashion and issuing further user requests via said open connection.

10. (withdrawn) The method of claim 7, further comprising determining the device type of the remote access device and communicating information to said remote access device in a format suitable for viewing thereon according the determined device type.

11. (withdrawn) The method of claim 10, wherein said information communicated to said remote access device is formatted for viewing by a web browser.

12. (withdrawn) The method of claim 10, wherein said information communicated to said remote access device is formatted for viewing on a personal computer.

13. (withdrawn) The method of claim 10, wherein said information communicated to said remote access device is formatted for viewing on a mobile telephone.

14. (withdrawn) The method of claim 10, wherein said information communicated to said

remote access device is formatted for viewing on a personal digital assistant.

15. (withdrawn) The method of claim 10, wherein said information communicated to said remote access device is formatted for viewing on an internet appliance device.

16. (withdrawn) A system for providing access to a base device identified with a user of a remote client device, the system comprising:

a web server operatively coupled for communication with the remote client device accessed by the user;

a user server operatively coupled to said web server and said remote client device, said user server further configured to communicate data between the base device and the remote client device; and

a load balancing module coupled to the user server for allocating resources on a user by user basis.

17. (withdrawn) The remote access system of claim 16, wherein said data communicated to the remote client device is formatted for viewing by a web browser.

18. (withdrawn) The remote access system of claim 16, wherein said data communicated to the remote device is further formatted for viewing on a personal computer.

19. (withdrawn) The remote access system of claim 16, wherein said data communicated to the remote device is further formatted for viewing on a mobile telephone.

20. (withdrawn) The remote access system of claim 16, wherein said data communicated to the remote device is further formatted for viewing on a personal digital assistant device.

21. (withdrawn) The remote access system of claim 16, wherein said data communicated to the remote device is further formatted for viewing on an internet appliance device.

22. (withdrawn) The remote access system of claim 16, wherein said user server is further configured to communicate data with said base device via requests initiated by said base device.

23. (original) A method for providing access to a base device identified with a user of a remote client device, the method comprising the steps of:

- (a) operatively coupling a web server with the remote client device to allow communication between the web server and the remote client device;
- (b) operatively coupling a user server to said web server and said remote client device; and
- (c) communicating data between the base device and the remote client device via said user server from requests initiated by said base device.

24. (original) A method for providing access to a base device identified with a user of a remote client device as recited in claim 23, further comprising a step (d) of allocating resources in the user server on a user by user basis.

25. (original) One or more processor readable storage devices having processor readable code embodied on said one or more processor readable storage devices, said processor readable code for programming one or more processors to perform a method for providing access to a base device identified with a user of a remote client device, the method comprising the steps of:

- (a) operatively coupling a web server with the remote client device to allow communication between the web server and the remote client device;
- (b) operatively coupling a user server to said web server and said remote client device; and
- (c) communicating data between the base device and the remote client device via said user server from requests initiated by said base device.

26. (original) One or more processor readable storage devices and processor readable code for performing the method of claim 25, the method further comprising a step (d) of allocating resources in the user server on a user by user basis.

IX. EVIDENCE APPENDIX *(37 C.F.R. §41.37(c)(ix))*

None

X. RELATED PROCEEDINGS APPENDIX *(37 C.F.R. §41.37(c)(x))*

None